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REPORT
100-551

ESTABLISHING A TRUST FUND USING CIVIL PENALTIES COLLECTED UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 TO COMPENSATE VICTIMS OF THE COLLAPSE OF THE L'AMBIANCE PLAZA IN BRIDGEPORT, CT

SEPTEMBER 26, 1988.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2086]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2086) to establish a trust fund using civil penalties collected under the Occupational Safety and Health Act of 1970 to compensate victims of the collapse of the L'Ambiance Plaza in Bridgeport, CT, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY OF THE BILL

S. 2086 was introduced by Senators Lowell Weicker, Jr. and Christopher Dodd on February 24, 1988. The bill establishes a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate the persons injured, or survivors of persons killed, as a result of the 1987 collapse of the L'Ambiance Plaza apartment building under construction in Bridgeport, Connecticut.

The bill provides that anyone filing a claim against the trust fund must first exhaust civil remedies against the companies and that the court of jurisdiction shall determine how much to compensate the victims' families. For purposes of this bill, the U.S. district court for the district where the violation is alleged to have occurred, or where the employer has its principal office, is the court of jurisdiction. After a reasonable period of time, as determined by

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the court, all funds remaining in the trust fund shall be deposited into the United States Treasury.

II. BACKGROUND AND NEED FOR LEGISLATION

On April 23, 1987, the L'Ambiance Plaza apartment building which was under construction in Bridgeport, Connecticut, collapsed, killing twenty-eight construction workers and injuring roughly a dozen more. The building was to be a thirteen story, two hundred and eighteen unit apartment building with a parking garage. At the time of the collapse, the building was approximately thirty percent completed.

Investigations of the accident were conducted by the Occupational Safety and Health Administration, through the National Bureau of Standards, and also by the Connecticut Governor's Building Construction Advisory Committee. In its report for OSHA, the National Bureau of Standards concluded that there were "significant inadequacies in the construction practices used at L'Ambiance Plaza, including a serious disregard for fundamental engineering practices." The report went on to state, "There is little evidence of consistent methods for maintaining overall project quality control including safety considerations during the construction process, starting with the design and continuing through the completion of construction."

While the NBS report does not make any conclusions about the role that OSHA should have played in preventing this accident by monitoring of the site, the lack of an on-site inspection by OSHA during construction meant that serious structural flaws in the building went undetected.

The Governor's report concluded that the construction industry continues to be a highly dangerous and life-threatening industry, one that necessities continuing education for employers and employees regarding safety issues. Additionally, the report made twenty-five recommendations, concerning building code administration and enforcement, oversight and safety on construction sites, licensure, and emergency management. Many of these recommendations have been acted upon by the state.

While these changes will hopefully have a positive impact on the safety of the construction industry in the future, they cannot alter the disastrous consequences of the collapse of L'Ambiance Plaza. Most of those killed or seriously injured in the collapse were principal wage-earners for their families. While less than half of the families will receive workmen's compensation benefits, in most cases those benefits will not fully replace the loss of income they have sustained. The purpose of this legislation is to assist those families who lives have been forever altered as a result of an accident for which the construction companies involved share responsibility.

III. COMMITTEE CONSIDERATION

On April 26, 1988, the Senate Committee on Labor and Human Resources held a hearing on the collapse of L'Ambiance Plaza. Testifying at the hearing were John Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health; John Lyons, the Director of the National Engineering Laboratory of the National

Bureau of Standards; Mary Beth Addona and Nancy Daddona, the wives of two of the men killed in the collapse; the Honorable Christopher Shays, representing the 4th District of Connecticut, including Bridgeport; Joseph P. Egan, Jr., representing the Bridge, Structural and Ornamental Iron Workers of the AFL–CIO; Robert A. Georgine, President, Building and Construction Trades Department of the AFL–CIO; and the Honorable Thomas W. Bucci, Mayor of Bridgeport.

On June 22, the Committee reported S. 2086 by voice vote.

IV. COMMITTEE VIEWS

The Committee believes that there is an obligation to help those families who have suffered severe financial hardship as a result of the collapse of the L'Ambiance Plaza building. In addition to the responsibility that lies with the construction companies involved, it was at least partially due to the lack of federal inspection by OSHA of the site that a serious structural defect in the building was not detected, as noted earlier. In fact, during the hearing, John Lyons of the National Bureau of Standards stated that the failed shearhead connection on the building was so poor that it should have been apparent to an inspector prior to the accident. He concluded by saying, "I was horrified and thought this was an accident waiting to happen."

The Committee believes that in the future more aggressive oversight and technical assistance by OSHA will help to prevent further tragedies such as occurred at L'Ambiance Plaza. However, the Committee also recognizes that such efforts will not assist the families of the twenty-eight construction workers who lost their lives at L'Ambiance Plaza. Therefore, the Committee expresses its sympathy to the victims of the accident and their families, and also its hope that the monetary compensation authorized by this legislation will alleviate, in some small measure, the financial burdens which these individuals have encountered, and will continue to suffer as a result of this tragic accident.

V. REGULATORY IMPACT STATEMENT

The Committee has determined that there will be minimal, if any, increase in the regulatory burden as a result of this bill.

VI. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2086, a bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L'Ambiance Plaza in Bridgeport, CT, as ordered reported by the Senate Committee on Labor and Human Resources on June 22, 1988.

S. 2086 would establish a trust fund from the fines assessed by the Occupational Safety and Health Administration (OSHA) as a result of the collapse of the L'Ambiance Plaza in Bridgeport, CT. OSHA fined the construction companies involved in the project a total of $5.1 million. The Department of Labor assumes it will collect the full $5.1 million that is currently assessed.

Costs to the federal government could result from payments made through the trust fund to any person physically injured or to the survivor of a person killed by the collapse of the plaza. This compensation would result only after all civil remedies have been exhausted and could occur over the next several years. Costs would be limited to the $5.1 million though it is not possible to estimate when the actual spending would be incurred. After compensation has been provided, the remaining funds would be deposited into the Treasury.

If you wish further details on this estimate, please contact me or have your staff contact Lori Housman (226–2820) or Marianne Page (226–2720).

Sincerely,

JAMES L. BLUM,
Acting Director.

VII. SECTION-BY-SECTION SUMMARY

Sec. 1(a). *Payment to Trust Fund.*—All civil penalties recovered under the Occupational Health and Safety Act of 1970 as a result of the collapse of L'Ambiance Plaza in Bridgeport, Connecticut in 1987 shall be paid into a trust fund.

Sec. 1(b). *Filing of Claims.*—Any person physically injured, or survivor of a person killed from the collapse of the Plaza must exhaust all civil remedies against all allegedly liable parties before resorting to the trust fund.

Sec. 1(c) *Payment of Claims.*—The court shall determine the amounts of trust fund monies to compensate victims [defined under Sec. 1(b)].

Sec. 1(d). *Civil Actions.*—No allegedly liable party may offer partial payment in defense as a substitute for full payment of claims.

Sec. 1(e). *Remainder to Treasury.*—All unexpended funds remaining in the trust fund after claims have been paid shall be remanded to the Secretary of Labor for deposit into the Treasury of the United States.

ADDITIONAL VIEWS OF MR. METZENBAUM

I have great sympathy for the victims of the L'Ambiance Plaza tragedy. We should do all we can to ease the pain of those who were injured and to console the families of the 28 workers who lost their lives in that terrible accident.

Despite my deep concerns for the victims of the L'Ambiance Plaza building collapse, I have serious reservations about this bill. The idea that civil fines assessed as a result of an accident should be targeted to help victims of the accident or should be channeled to enhance enforcement of the underlying safety laws has some merit. But if we are going to adopt the innovative approach contained in this legislation to create a special victims' trust fund, then it should apply across-the-board.

Hundreds of thousands of workers are killed or maimed in workplace accidents each year. Millions of dollars of civil fines are assessed against companies as a result of those accidents. If we want to create a trust fund, all civil fines should be pooled in that fund and all victims should be eligible to benefit from that fund. I believe it establishes an unfortunate precedent to single out one tragic accident for special treatment. I hope that when this bill is debated on the floor of the Senate, we can discuss the impact of the precedent established by this legislation.

HOWARD M. METZENBAUM.

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